

# Office of Defense Services (ODS)



**JFC FY'21 Budget Hearing  
February 19, 2020**



# Who are we?

The ODS consists of three branches: Central Administration (CA), the Public Defender's Office (PDO), and the Office of Conflicts Counsel (OCC).

CA handles the administrative/business side of the 2 law practices – the PDO and the OCC.

The PDO is the primary provider of legal services for those who cannot afford to hire a lawyer.

OCC attorneys represent clients with whom PDO has a conflict.

# What do we do?

The ODS is a state-funded public agency whose lawyers defend every indigent adult accused of a crime in Delaware and all children accused of a delinquent act.

Every indigent defendant's right to counsel is guaranteed by the Sixth Amendment to the U.S. Constitution. The ODS's mission also derives from the Delaware Constitution (Article I, Section 7), and landmark U.S. and Delaware Supreme Court cases, including Gideon v. Wainwright; State v. Lewis.

**The ODS represents**

**85%**

**of criminal defendants in  
Delaware**

# By the numbers...

In FY 19, Assistant Public Defenders defended clients in over 40,000 cases.

In FY 19, lawyers from the OCC defended clients in over 4,500 cases.

# Central Administration (CA)

There are 31 (including four casual/seasonal) employees in ODS' Central Administration Branch:

- 4 on our Executive Team;
- 18 intake personnel (including one contractor);
- 3 in our HR/Fiscal department;
- 5 on our IT team;
- 1 Training and Development Director

# Public Defender's Office (PDO)

In FY 19, PDO lawyers defended clients in approximately 40,000 cases. We have 134 employees (including 6 casual/seasonal and 7 contractors) across all three counties, representing clients in the Court of Common Pleas, Family Court, Superior Court and the Delaware Supreme Court.

# PDO continued

The PDO's budget is driven by mostly fixed costs, with 90+ percent going towards personnel.

Most employees are FTEs, with some C/S and grant-funded employees.

Costs to defend cases vary.

# PDO ATTORNEYS – AVG. CASELOADS

	CCP	FC	SUPER	SUPR.
AVG (Total)	640	320	488	23
AVG (Closed)	507	287	162	23
A.B.A. (1973)	400	200	150	23

# Office of Conflicts Counsel

The OCC contracts with private lawyers (32) to defend clients in cases in which the PDO is disqualified due to conflicts of interest. Over 4,500 cases in FY 19.

The OCC staff:

- 7 FTEs, including a managing attorney in each county;
- 2 casual/seasonal staff;
- 2 contractual employees

# OCC continued

Fixed costs for employees

Variable costs on a case by case basis:

- Attorneys fees (hourly)

- Necessary services:

  - Experts

  - Investigators

  - Transcripts

  - Other

# OCC continued

Outlier cases

e.g., 18 defendants in a single case,  
resulting in a series of jury trials

Costs can skyrocket

Steps to control costs

# Governor's Recommended Budget (FY 21)

Central Administration - \$3,435,900

Public Defender's Office - \$16,401,400

Office of Conflicts Counsel - \$6,908,000

Overall total - \$26,745,300

# ODS' Responsibilities and Resources

Constitutionally mandated

Need resources:

To meet current and future responsibilities

GRB is a good start, but we need a bit more.

# Bottom Line

The Governor's Recommended Budget (GRB) for FY 21 is **\$26,745,300**, a **2.36 %** increase over last year's budget.

The GRB has recommended funding for 5 of our 8 priorities. We're asking the JFC for **\$379,703 in addition to the GRB** to fund the remaining 3 requests and 1 new request.

# Requests

- Deputy Controller ✓
- Partners for Justice funding ✓
- Rent for Sussex County office space ✓
- Lease for new Kent County Office ✓
- Annual Supreme Court registration ✓
- Convert 2.0 Forensic Social Specialists to FTE
- Convert 2.0 Office of Conflicts Counsel paralegals (casual/seasonal) to FTE
- Convert 1.0 Office of Conflicts Counsel Rule 61 coordinator to FTE
- Adult expungement attorney and paralegal

# Deputy Controller – (1.0 FTE, \$117,000)

Currently, one person performs the fiscal and HR functions for a staff of 209, including 155 full-time employees.

We need a deputy to help this person to manage the workload, including an increasing amount of retiring employees. This is the only deficiency identified in the FSF audit.

# Partners for Justice Advocates (\$187,500)

In their first year, the 5 advocates assisted 670 clients with ancillary issues such as housing, licensing, education, and employment.

Private funding is good through Sept. 2020. This request gets them through the remainder of FY 21.

# PFJ (Continued)

There have been many success stories...

An example:

*One client, a young mother of an infant daughter and toddler son was on bedrest from birth-related surgery. She was participating in a drug diversion court program when she was issued a no contact order with her residence, made homeless, and then sentenced to house arrest.*

*Our advocate connected her to community financial resources and she was able to get a loan against her expected tax return. She was further connected to a former client's landlord, and he was able to expedite the preparation of a 1BR unit for her.*

*With this assistance, the client was able to get into her first ever own apartment and was able to comply with house arrest instead of doing 2 years of jail time.*

# Sussex County offices – (\$12,900)

The ODS faces a projected shortfall for our rented office spaces at both of our locations in Georgetown.

Additionally, our main location's landlord is increasing the rent by 5 %. The requested amount would cover these expenses.

# Kent County office space – (\$66,617)

Our Kent County office is bursting at the seams. We've signed a lease for additional office space on Loockerman Street in downtown Dover. We take possession on March 1<sup>st</sup>.

This request covers our annual rent.

# **Annual Supreme Court registration – (\$17,284)**

This is a joint request with the DOJ to cover the annual registration fees for our Assistant Public Defenders and contract attorneys.

# **Upgrade Contract Forensic Social Specialists (FSS) to FTE – (2.0 FTE, \$82,400)**

Forensic Social Specialists are key members of the ODS' defense teams. They each handle about 100 cases a year.

This request converts two contractual positions, one each in Kent and Sussex Counties, to full-time positions. The current total cost of the contracts is \$100,000. The \$82,400 request is to make up the difference between the contractual cost and the cost to convert these positions to FTE status.

# Upgrade OCC Paralegals to FTE – (2.0 FTE, \$103,446)

These paralegals are crucial support staff for the OCC managing attorneys in Kent and Sussex Counties.

This request converts them from their casual seasonal status to FTEs. The current total cost is \$55,600 a year.

The \$103,446 request is to make up the difference between the contractual cost and the cost to convert these positions to FTE status.

# **Upgrade OCC Rule 61 Coordinator to FTE – (1.0 FTE, \$27,524)**

We currently have an OCC paralegal serving as our Rule 61 Coordinator. This is a contract position that we are looking to convert to FTE.

The current contract amount is \$52,000 a year. The FTE salary, plus benefits, is \$79,524. The \$27,524 request is to make up the difference between the contractual cost and the cost to convert this position to FTE status.

# Adult Expungement coordinator and paralegal (2.0 FTE – \$166,333)

The Adult Expungement Law (SS1 for SB 37) expands an individual's ability to seek an expungement. Currently, there are very limited legal services available for adults who cannot afford an attorney.

This request would create an adult expungement coordinator and a support person. These positions would plan statewide clinics, promote awareness, educate the public, and answer questions related to expungements. The attorney would also provide representation in contested cases.

The DOJ received additional support staff through the fiscal note attached to SS1 for SB 37.

# Conclusion

The GRB is a positive step forward. We are asking for a few more things to improve our practice.

1. Upgrade several contractual and casual/seasonal positions to FTE (\$213,370)
2. Adult expungement coordinator and paralegal (\$166,333)

These additions would increase the ODS's overall budget from **\$26,745,300 (GRB)** to **\$27,125,003**, representing a **3.8 %** increase from the FY 20 budget.

# Conclusion (Continued)

Thank you for considering our requests. We at the ODS believe you understand our mission and the state's constitutional obligation to provide competent, conflict free representation to every indigent person charged with a crime.